UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Vara Birapaka,

          Plaintiff,

  vs.

U.S. Army Research Laboratory, et al.,

          Defendants.

Case No. 17-cv-04090 (PAM/KMM)

DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S DECEMBER 11, 2017, AMENDED COMPLAINT

Motion Defendants Lori Swanson, the Minnesota Attorney General, Mark Dayton, the Governor of Minnesota, in their official capacities only, and the Minnesota Department of Human Services, move the Court to Dismiss Plaintiff's December 11, 2017Amended Complaint (Doc. No. 71), pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, against them in its entirety with prejudice for lack of jurisdiction and for failure to state a claim upon which relief can be granted. This Motion is based upon all files, records and proceedings herein, including the Memorandum of Law filed and served herewith.[1]

Dated: December 21, 2017.

OFFICE OF THE ATTORNEY GENERAL
State of Minnesota

/s/ Ali P. Afsharjavan
ALI P. AFSHARJAVAN

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[1] After Motion Defendants filed their Motion to Dismiss and supporting documents with regard to Plaintiff's Amended Complaint filed on September 22, 2017, Plaintiff filed an additional Amended Complaint on December 11, 2017. The December 11 Amended Complaint makes no new allegations against Motion Defendants. Motion Defendants file a new motion to dismiss in the event the Court deems that the December 11 Amended Complaint renders moot Motion Defendants' pending motion to dismiss the September 22, 2017 Amended Complaint. In any event, the Court should dismiss the claims against Motion Defendants under either Amended Complaint.

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Minnesota, and the Minnesota Department of
Human Services*